

SOUTH CAROLINA HAZARDOUS WASTE MANAGEMENT REGULATIONS

June 25, 2004



**Promulgated Pursuant to Sections 48-1-10 et seq. and 44-56-30
of the 1976 South Carolina Code of Laws**

**Supersedes
Regulations R.61-79.124, R.61-79.260 through .266,
.268, .270 and .273
(federal compliance)**

Previously Amended June 27, 2003

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R.61-79 is online at http://www.scdhec.gov/lwm/html/wm_rcraregs.htm

Note to Users

This amendment to R.61-79 is effective June 25, 2004, superseding a June 27, 2003, amendment. The federal equivalent to R. 61-79 is amended throughout the year. This document reflects federal amendments published in the Federal Register prior to June 30, 2003. Recent federal amendments affect: zinc fertilizer made from recycled hazardous secondary materials, treatment standards for some hazardous and radioactive batteries prior to radioactive waste disposal, and technical corrections to combustor standards. The State is required to adopt certain federal amendments to maintain authorization by the United States Environmental Protection Agency for the State Hazardous Waste Management Program.

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- http://www.scdhec.gov/lwm/html/wm_rcraregs.htm
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- **FOI office: either hard copy or CD (Word and pdf) for \$25**

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268 - Land Disposal Restrictions

Subpart A - GENERAL

268.1 Purpose, scope and applicability

(a) This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(b) Except as specifically provided otherwise in this part or R.61-79.261, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

(c) Restricted wastes may continue to be land disposed as follows: (11/90)

(1) Where persons have been granted an extension to the effective date of a prohibition under subpart C of R.61-79.268 or pursuant to section 268.5, with respect to those wastes covered by the extension;

(2) Where persons have been granted an exemption from a prohibition pursuant to a petition under section 268.6, with respect to those wastes and units covered by the petition;

(3) [Reserved]

(4) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than DEACT in 268.40, or are D003 reactive cyanide: (9/98)

(i) The wastes are managed in a treatment system which subsequently discharges to waters of the U.S. pursuant to a permit issued under section R.61-9 and R.61-68; or

(ii) The wastes are treated for purposes of the pretreatment requirements of section R.61-9 and R.61-68; or

(iii) The wastes are managed in a zero discharge system engaged in Clean Water Act equivalent treatment as defined in 268.37(a); and

(iv) The wastes no longer exhibit a prohibited characteristic at the point of land disposal (i.e., placement in a surface impoundment).

(d) The requirements of this part shall not affect the availability of a waiver under section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). (11/90, 12/92)

(e) The following hazardous wastes are not subject to any provision of part 268:

(1) Waste generated by small quantity generators of less than 100 kilograms of nonacute hazardous waste or less than 1 kilogram of acute hazardous waste per month, as defined in 261.5 (11/90);

(2) Waste pesticides that a farmer disposes of pursuant to 262.70 (11/90);

(3) Wastes identified or listed as hazardous after November 8, 1984 for which EPA has not promulgated land disposal prohibitions or treatment standards (11/90, 12/92).

(4) De minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses from

normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purgings; and relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one per cent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility; (12/93, 5/96, 9/98)

(5) [Removed 11/99]

(f) Universal waste handlers and universal waste transporters (as defined in 260.10) are exempt from 268.7 and 268.50 for the hazardous wastes listed below. These handlers are subject to regulation under part 273. (5/96)

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Thermostats as described in 273.4

and

- (4) Lamps as described in 273.5. (8/00)

268.2 Definitions applicable in this part

When used in this part the following terms have the meanings given below: (11/90)

(a) "Halogenated organic compounds" or HOCs means those compounds having a carbon-halogen bond which are listed under Appendix III to this part. (11/90)

(b) "Hazardous constituent or constituents" means those constituents listed in Appendix VIII to R.61-79.261.

(c) "Land disposal" means placement in or on the land, except in a corrective action management unit, or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes. (11/90; 12/92; 12/93, 8/00)

(d) "Nonwastewaters" are wastes that do not meet the criteria for wastewaters in paragraph (f) of this section. (11/90; 12/92; 12/93)

(e) "Polychlorinated biphenyls" or PCB's are halogenated organic compounds defined in accordance with 40 CFR 761.3. (11/90; moved 12/93)

(f) "Wastewaters" are wastes that contain less than 1 % by weight total organic carbon (TOC) and less than 1 % by weight total suspended solids (TSS). (11/90, 12/93, 9/98)

(g) "Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in subpart D, part 268, namely lead acid batteries, cadmium batteries, and radioactive lead solids; Process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and Intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection. (12/93, 5/96)

(h) "Hazardous debris" means debris that contains a hazardous waste listed in subpart D of part 261, or that exhibits a characteristic of hazardous waste identified in subpart C of part 261. Any deliberate mixing of prohibited hazardous waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in 268.3. (12/93, 8/00)

(i) "Underlying hazardous constituent" means any constituent listed in 268.48, Table UTS - Universal Treatment Standards, except fluoride, selenium, sulfides, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste, at a concentration above the constituent-specific UTS treatment standard. (12/93, 5/96, 9/98, 11/99)

(j) "Inorganic metalbearing waste" is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content as described in 268.3(c)(1), and is specifically listed in Appendix XI of this part. (9/98)

(k) Soil means unconsolidated earth material composing the superficial geologic strata (material

overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited hazardous waste with soil that changes its treatment classification (i.e., from waste to contaminated soil) is not allowed under the dilution prohibition in 268.3. (11/99, 8/00)

268.3 Dilution prohibited as a substitute for treatment

(a) Except as provided in paragraph (b) of this section, no generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with subpart D of this part, to circumvent the effective date of a prohibition in subpart C of this part, to otherwise avoid a prohibition in subpart C of this part, or to circumvent a land disposal prohibition imposed by RCRA section 3004. (11/90, 12/92)

(b) Dilution of wastes that are hazardous only because they exhibit a characteristic in treatment systems which include land based units which treat wastes subsequently discharged to a water of the United States pursuant to a permit issued under section R.61-9 and R.61-68, or which treat wastes in a CWA equivalent treatment system, or which treat wastes for the purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this section unless a method other than DEACT has been specified in 268.40 as the treatment standard in 268.42, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater. (12/92, 12/93, 9/98)

(c) Combustion of the hazardous waste codes listed in Appendix XI of this part is prohibited, unless the waste, at the point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion): (9/98)

(1) The waste contains hazardous organic constituents or cyanide at levels exceeding

268.4 Treatment surface impoundment exemption
the constituent-specific treatment standard found in 268.48;

(2) The waste consists of organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste;

(3) The waste, at point of generation, has reasonable heating value such as greater than or equal to 5000 BTU per pound;

(4) The waste is cogenerated with wastes for which combustion is a required method of treatment;

(5) The waste is subject to Federal and/or State requirements necessitating reduction of organics (including biological agents); or

(6) The waste contains greater than 1% Total Organic Carbon (TOC).

(d) It is a form of impermissible dilution, and therefore prohibited, to add iron filings or other metallic forms of iron to lead-containing hazardous wastes in order to achieve any land disposal restriction treatment standard for lead. Lead-containing wastes include D008 wastes (wastes exhibiting a characteristic due to the presence of lead), all characteristic wastes containing lead as an underlying hazardous constituent, listed wastes containing lead as a regulated constituent, and hazardous media containing any of the aforementioned lead-containing wastes. (11/99)

268.4 Treatment surface impoundment exemption

(a) Wastes which are otherwise prohibited from land disposal under this part may be treated in a surface impoundment or series of impoundments provided that: (11/90)

(1) Treatment of such wastes occurs in the impoundments;

(2) The following conditions are met: (11/90)

(i) Sampling and testing. For wastes with treatment standards in subpart D of this part and/or prohibition levels in subpart C of this part or RCRA section 3004(d), the residues from treatment are analyzed, as specified in 268.7 or 268.32, to determine if they meet the applicable treatment standards or where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under 264.13 or 265.13, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

(ii) Removal. The following treatment residues (including any liquid waste) must be removed at least annually: residues which do not meet the treatment standards promulgated under subpart D of this part; residues which do not meet the prohibition levels established under subpart C of this part or imposed by statute (where no treatment standards have been established); residues which are from the treatment of wastes prohibited from land disposal under subpart C of this part (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes which are not delisted under 260.22. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. (11/99)

(iii) Subsequent management. Treatment residues may not be placed in any other surface impoundment for subsequent management. (11/99)

(iv) Recordkeeping: Sampling and testing and recordkeeping provisions of 264.13 and 265.13 of this chapter apply. (9/98)

(3) The impoundment meets the design requirements of 264.221(c) or 265.221(a), regardless that the unit may not be new, expanded, or a replacement, and be in compliance with applicable groundwater monitoring requirements of subpart F of part 264 or part 265 unless: (11/90)

(i) Exempted pursuant to 264.221 (d) or (e), or to 265.221 (c) or (d); or,

(ii) Upon application by the owner or operator, the Department, after notice and an opportunity to comment, has granted a waiver of the requirements on the basis that the surface impoundment:

(A) Has at least one liner, for which there is no evidence that such liner is leaking;

(B) Is located more than one-quarter mile from an underground source of drinking water; and

(C) Is in compliance with generally applicable groundwater monitoring requirements for facilities with permits; or,

(iii) Upon application by the owner or operator, the Department, after notice and an opportunity to comment, has granted a modification to the requirements on the basis of a demonstration that the surface impoundment is

268.5 Procedures for case-by-case extensions to an effective date located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

(4) The owner or operator submits to the Department a written certification that the requirements of 268.4(a)(3) have been met and submits a copy of the waste analysis plan required under 268.4(a)(2). The following certification is required: (11/90)

I certify under penalty of law that the requirements of 268.4(a)(3) have been met for all surface impoundments being used to treat restricted wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(b) Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this section. (11/90)

268.5 Procedures for case-by-case extensions to an effective date

(a) Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Department and the EPA for an extension to the effective date of any applicable restriction established under subpart C of this part. The applicant must demonstrate the following: (12/93)

(1) He has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste in accordance with the effective date of the applicable restriction established under subpart C of this part;

(2) He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery (e.g., recycling), or disposal capacity that meets the treatment standards specified in subpart D or, where treatment standards have not been specified, such treatment, recovery, or disposal capacity is protective of human health and the environment. (11/90)

(3) Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity

will result in the capacity not being available by the applicable effective date;

(4) The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application;

(5) He provides a detailed schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available;

(6) He has arranged for adequate capacity to manage his waste during an extension and has documented in the application the location of all sites at which the waste will be managed; and

(7) Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of paragraph (h)(2) of this section.

(b) An authorized representative signing an application described under paragraph (a) of this section shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(c) After receiving an application for an extension, the Department and EPA may request any additional information which it deems as necessary to evaluate the application. (12/93)

(d) An extension will apply only to the waste generated at the individual facility covered by the application and will not apply to restricted waste from any other facility.

(e) On the basis of the information referred to in paragraph (a) of this section, after notice and opportunity for comment, and after consultation with appropriate State and federal agencies, the Department and the EPA may grant an extension of up to 1 year from the effective date. The Department and the EPA may renew this extension for up to 1 additional year upon the request of the applicant if the demonstration required in paragraph (a) of this section can still be made. In no event will an extension extend beyond 24 months from the applicable effective date specified in subpart C of R.61-79.268. The length of any extension authorized will be determined by the

268.5 Procedures for case-by-case extensions to an effective date
Department and the EPA based on the time required to construct or obtain the type of capacity needed by the applicant as described in the completion schedule discussed in paragraph (a)(5) of this section. The Department and the EPA will give public notice of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the Federal Register. (11/90, 12/92)

(f) Any person granted an extension under this section must immediately notify the Department and EPA as soon as he has knowledge of any change in the conditions certified to in the application. (12/92).

(g) Any person granted an extension under this section shall submit written progress reports at intervals designated by the Department and EPA. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery or disposal capacity; must identify any event which may cause or has caused a delay in the development of the capacity; and must summarize the steps taken to mitigate the delay. The Department and EPA can revoke the extension at any time if the applicant does not demonstrate a good-faith effort to meet the schedule for completion, if the Department and EPA denies or revokes any required permit, if conditions certified in the application change, or for any violation. (12/92)

(h) Whenever the Department and EPA establishes an extension to an effective date under this section, during the period for which such extension is in effect: (11/90, 12/92)

(1) The storage restrictions under R.61-79.268.50(a) do not apply; and

(2) Such hazardous waste may be disposed in a landfill or surface impoundment only if such unit is in compliance with the technical requirements of the following provisions regardless of whether such unit is existing, new, or a replacement or lateral expansion.

(i) The landfill, if in interim status, is in compliance with the requirements of subpart F of R.61-79.265 and R.61-79.265.301 (a), (c), and (d); or, (12/93)

(ii) The landfill, if permitted, is in compliance with the requirements of subpart F of R.61-79.264 and R.61-79.264.301 (c), (d) and (e); or (12/93)

(iii) The surface impoundment, if in interim status, is in compliance with the requirements of subpart F of R.61-79.265, R.61-

79.265.221 (a), (c), and (d), and RCRA section 3005(j)(1); or (12/92, 12/93)

(iv) The surface impoundment, if permitted, is in compliance with the requirements of subpart F of part 264 and R.61-79.264.221 (c), (d) and (e); or (12/93)

(v) The surface impoundment, if newly subject to RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics for the identification of hazardous waste, is in compliance with the requirements of subpart F of part 265 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of 265.221 (a), (c) and (d) within 48 months after the promulgation of additional listings or characteristics of hazardous waste. If a national capacity variance is granted, during the period the variance is in effect, the surface impoundment, if newly subject to RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics of hazardous waste, is in compliance with the requirements of subpart F of part 265 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of 265.221 (a), (c) and (d) within 48 months after the promulgation of additional listings or characteristics of hazardous waste; or (12/93)

(vi) The landfill, if disposing of containerized liquid hazardous wastes containing PCB's at concentrations greater than or equal to 50 ppm but less than 500 ppm, is also in compliance with the requirements of 40 CFR 761.75 and parts 264 and 265.

(i) Pending a decision on the application the applicant is required to comply with all restrictions on land disposal under this part once the effective date for the waste has been reached.

268.6 Petitions to allow land disposal of a waste prohibited under subpart C of part 268

(a) Any person seeking an exemption from a prohibition under subpart C of this part for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the Department and the EPA demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components: (12/92)

(1) An identification of the specific waste and the specific unit for which the demonstration will be made;

(2) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;

(3) A comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality;

(4) A monitoring plan that detects migration at the earliest practicable time; (11/90)

(5) Sufficient information to assure the Department and the EPA that the owner or operator of a land disposal unit receiving restricted waste(s) will comply with other applicable Federal, State, and local laws. (11/90, 12/92)

(b) The demonstration referred to in paragraph (a) of this section must meet the following criteria: (12/93)

(1) All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

(2) All sampling, testing, and estimation techniques for chemical and physical properties of the waste and all environmental parameters must have been approved by the Department and EPA; (12/92)

(3) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

(4) A quality assurance and quality control plan that addresses all aspects of the demonstration must be approved by the Department and EPA; and, (12/92)

(5) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts, or other natural phenomena.

(c) Each petition referred to in paragraph (a) of this section must include the following: (11/90)

(1) A monitoring plan that describes the monitoring program installed at and/or around the unit to verify continued compliance with the conditions of the variance. This monitoring plan must provide information on the monitoring of the unit and/or the environment around the unit. The

following specific information must be included in the plan:

(i) The media monitored in the cases where monitoring of the environment around the unit is required;

(ii) The type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

(iii) The location of the monitoring stations;

(iv) The monitoring interval (frequency of monitoring at each station);

(v) The specific hazardous constituents to be monitored;

(vi) The implementation schedule for the monitoring program;

(vii) The equipment used at the monitoring stations;

(viii) The sampling and analytical techniques employed; and

(ix) The data recording/reporting procedures.

(2) Where applicable, the monitoring program described in paragraph (c)(1) of this section must be in place for a period of time specified by the Department and EPA, as part of his approval of the petition, prior to receipt of prohibited waste at the unit. (12/92)

(3) The monitoring data collected according to the monitoring plan specified under paragraph (c)(1) of this section must be sent to the Department and EPA according to a format and schedule specified and approved in the monitoring plan, (12/92) and

(4) A copy of the monitoring data collected under the monitoring plan specified under paragraph (c)(1) of this section must be kept onsite at the facility in the operating record.

(5) The monitoring program specified under paragraph (c)(1) of this section meet the following criteria:

(i) All sampling, testing, and analytical data must be approved by the Department and EPA and must provide data that is accurate and reproducible. (12/92)

(ii) All estimation and monitoring techniques must be approved by the Department and EPA. (12/92)

(iii) A quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the Department and EPA. (12/92)

(d) Each petition must be submitted to the Department and EPA. (11/90, 12/92)

(e) After a petition has been approved, the owner or operator must report any changes in conditions at the unit and/or the environment around the unit that significantly depart from the conditions described in the variance and affect the potential for migration of hazardous constituents from the units as follows: (11/90)

(1) If the owner or operator plans to make changes to the unit design, construction, or operation, such a change must be proposed, in writing, and the owner or operator must submit a demonstration to the Department and EPA at least 30 days prior to making the change. The Department and EPA will determine whether the proposed change invalidates the terms of the petition and will determine the appropriate response. Any change must be approved by the Department and EPA prior to being made. (12/92)

(2) If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Department and EPA within 10 days of discovering the change. The Department and EPA will determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition, petition modifications, or other responses. (12/92)

(f) If the owner or operator determines that there is migration of hazardous constituent(s) from the unit, the owner or operator must: (11/90)

(1) Immediately suspend receipt of prohibited waste at the unit, (12/92) and

(2) Notify the Department and EPA, in writing, within 10 days of the determination that a release has occurred. (12/92)

(3) Following receipt of the notification the Department and EPA will determine, within 60 days of receiving notification, whether the owner or operator can continue to receive prohibited waste in the unit and whether the variance is to be revoked. The Department and EPA shall also determine whether further examination of any migration is warranted under applicable provisions of part 264 or part 265. (12/92)

(g) Each petition must include the following statement signed by the petitioner or an authorized representative: (moved 11/90)

I certify under penalty of law that I have personally examined and am familiar with the

268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)
information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(h) After receiving a petition, the Department and EPA may request any additional information that reasonably may be required to evaluate the demonstration. (moved 11/90, 12/92)

(i) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit. (moved 11/90)

(j) The Department and EPA will give public notice in the State Register and the Federal Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the State Register. (moved 11/90; 12/92; 12/93)

(k) The term of a petition granted under this section shall be no longer than the term of the RCRA permit if the disposal unit is operating under a RCRA permit, or up to a maximum of 10 years from the date of approval provided under paragraph (j) of this section if the unit is operating under interim status. In either case, the term of the granted petition shall expire upon the termination or denial of a RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached. (11/90, 12/92)

(l) Prior to the Department and EPA's decision, the applicant is required to comply with all restrictions on land disposal under this part once the effective date for the waste has been reached. (12/92)

(m) The petition granted by the Department and EPA does not relieve the petitioner of his responsibilities in the management of hazardous waste under R.61-79.260 through part 270. (moved 11/90, edited 12/92)

(n) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 500 ppm are not eligible for an exemption under this section. (11/90)

requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)

(a) Requirements for generators: (9/98)

(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in 268.40, 268.45, or 268.49. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in Test Methods of Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, as referenced in 260.11 of this chapter, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in 268.40, and are described in detail in 268.42, Table 1. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of 268.9 of this part in addition to any applicable requirements in this section. (11/99, 8/00, 9/01)

(2) If the waste or contaminated soil does not meet the treatment standard: With the initial shipment of waste to each treatment or storage facility, the generator must send a onetime written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in 268.7(a)(4). No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file. (8/00)

268.7 Testing, tracking, and recordkeeping

268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)

(i) For contaminated soil, the following certification statement should be included, signed by an authorized representative:

I certify under penalty of law that I personally have examined this contaminated soil and it [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by 268.49(c).

(ii) [Reserved]

(3) If the waste or contaminated soil meets the treatment standard at the original point of generation: (11/99)

(i) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a onetime written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in the file. The notice must include the information indicated in column "268.7(a)(3)" of the Generator Paperwork Requirements Table in 268.7(a)(4) and the following certification statement, signed by an authorized representative:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in part 268, subpart DI believe that the information I submitted is true, accurate and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

(ii) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in " 268.7(a)(3) of the Generator Paperwork Requirements Table in 268.7(a)(4). (11/99)

(iii) If the waste changes, the generator must send a new notice and certification to the receiving facility, and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under 261.3(f) of this chapter are not subject to these requirements. (9/01)

(4) For reporting, tracking, and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed: There are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to case-by-case extensions under 268.5, disposal in a no-migration unit under 268.6, or a national capacity variance or case-by-case capacity variance under subpart C of this part. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column 268.7(a)(4) of the Generator Paperwork Requirements Table below. If the waste changes, the generator must send a new notice to the receiving facility, and place a copy in their files. (11/90, 12/92; 5/96, 9/98, 11/99)

Generator Paperwork Requirements Table 268.7(a)(4)

Required information (9/98, 11/99, 8/00)	268.7(a)(2)	268.7(a)(3)	268.7(a)(4)	268.7(a)(9)
1. EPA Hazardous Waste and Manifest numbers and Manifest Number of first shipment	x	x	x	x
2. Statement: this waste is not prohibited from land disposal			x	
3. The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice	x	x		
4. The notice must include the applicable wastewater/nonwastewater category (see 268.2(d) and (f)) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide)	x	x		
5. Waste analysis data (when available)	x	x	x	
6. Date the waste is subject to the prohibition			x	
7. For hazardous debris, when treating with the alternative treatment technologies provided by 268.45: the contaminants subject to treatment, as described in 268.45(b); and an indication that these contaminants are being treated to comply with 268.45	x		x	
8. For contaminated soil subject to LDRs as provided in 268.49(a) the constituents subject to treatment as described in 268.49(d) and the following statement: This contaminated soil (does/does not) contain listed hazardous	x	x		

268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)

waste and (does/does not) exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c) or the universal treatment standards

9. A certification is needed (see applicable section for exact wording)

x

x

(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 262.34 to meet applicable LDR treatment standards found at 268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, 268.45, however, are not subject to these waste analysis requirements.) The plan must be kept onsite in the generator's records, and the following requirements must be met: (12/92, 12/93, 9/98, 11/99)

(i) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this Part, including the selected testing frequency.

(ii) Such plan must be kept in the facility's onsite files and made available to inspectors.

(iii) Wastes shipped offsite pursuant to this paragraph must comply with the notification requirements of 268.7(a)(3).

(6) If a generator determines that the waste or contaminated soil is restricted based solely on his knowledge of the waste, all supporting data used to make this determination must be retained onsite in the generator's files. If a generator determines that the waste is restricted based on testing this waste or an extract developed using the test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW846, as referenced in 260.11 of this chapter, and all waste analysis data must be retained onsite in the generator's files. (9/98, 11/99)

(7) If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or is exempted from Subtitle C regulation under 261.2 through 261.6 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified

at 261.4(a)(2), or are CWA equivalent), or are managed in an underground injection well regulated by R.61-9 and R.61-68), he must place a one-time notice describing such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste, in the facility's on-site files. (12/92, 9/98, 11/99)

(8) Generators must retain onsite a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to onsite or offsite treatment, storage, or disposal. The three year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department. The requirements of this paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 261.2 through 261.6, or exempted from Subtitle C regulation, subsequent to the point of generation. (12/92, 9/98)

(9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at 268.42(c): (9/98)

(i) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "268.7(a)(9)" in the Generator Paperwork Requirements Table of paragraph (a)(4) of this section, and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's files, must say the following: (12/92; 5/96)

"I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under Appendix IV to part 268 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at 268.42(c). I am aware that there are significant

268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)
 penalties for submitting a false certification, including the possibility of fine or imprisonment." (12/92; 5/96, 11/99)

(ii) No further notification is necessary until such time that the wastes in the lab pack change, or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file.

(iii) If the lab pack contains characteristic hazardous wastes (D001 - D043), underlying hazardous constituents (as defined in 268.2(i)) need not be determined.

(iv) The generator must also comply with the requirements in paragraphs(a)(6) and (a)(7) of this section.

(10) Small quantity generators with tolling agreements pursuant to 262.20(e) must comply with the applicable notification and certification requirements of paragraph (a) of this section for the initial shipment of the waste subject to the agreement. Such generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department. (11/99)

(b) Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans as required by 264.13 (for permitted TSDs) or 265.13 (for interim status facilities). Such testing must be performed as provided in

paragraphs (b)(1), (b)(2) and (b)(3) of this section. (9/98)

(1) For wastes or contaminated soils with treatment standards expressed in the waste extract (TCLP) the owner or operator of the treatment facility must test an extract of the treatment residues, using test method 1311 (the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 as incorporated by reference in 260.11 of this chapter), to assure that the treatment residues extract meet the applicable treatment standards. (9/98, 11/99)

(2) For wastes or contaminated soils with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that they meet the applicable treatment standards. (9/98, 11/99)

(3) A one-time notice must be sent with the initial shipment of waste or contaminated soils to the land disposal facility. A copy of the notice must be placed in the treatment facility's file. (9/98, 11/99)

(i) No further notification is necessary until such time that the waste or receiving facility change, in which case a new notice must be sent and a copy placed in the treatment facility's file.

(ii) The onetime notice must include these requirements:

Treatment Facility Paperwork Requirements Table 268.7 (9/98, 11/99, 8/00) 268.7(b)

1. EPA Hazardous Waste and Manifest numbers and Manifest Number of first shipment

x

2. The waste is subject to the LDRs. The constituents of concern for F001-F005 and F039 and underlying constituents in characteristic wastes, unless the wastes will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice

x

3. The notice must include the applicable wastewater/nonwastewater category (see 268.2(d) and (f) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).

x

4. Waste analysis data (when available)

x

5. For contaminated soil subject to LDRs as provided in 268.49(a), the constituents subject to treatment as described in 268.49(d) and the following statement: "This contaminated soil [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c)

x

6. A certification is needed (see applicable section for exact wording)

x

(4) The treatment facility must submit a onetime certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. A certification is also necessary for contaminated soil and it must state: (9/98, 11/99)

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in 268.49 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment. (11/99)

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in 268.40 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment. (12/93, 9/98)

(i) A copy of the certification must be placed in the treatment facility's onsite files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file. (12/92, 11/99)

(ii) Debris excluded from the definition of hazardous waste under 261.3(e) of this chapter (i.e., debris treated by an extraction or destruction technology provided by Table 1, 268.45, and debris that the Director has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of paragraph (d) of this section rather than the certification requirements of this paragraph.

(iii) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified

in 268.40(d), the certification, signed by an authorized representative, must state the following: (12/92, 9/98)

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in 268.42, Table 1. I have been unable to detect the nonwastewater organic constituents, despite having used best good faith efforts to analyze for such constituents. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment. (9/98)

(iv) For characteristic wastes that are subject to the treatment standards in 268.40 (other than those expressed as a method of treatment), or 268.49, and that are reasonably expected to contain underlying hazardous constituents as defined in 268.2(i); if these wastes are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following: (11/99, 8/00)

"I certify under penalty of law that the waste has been treated in accordance with the requirements of 268.40 or 268.49 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet universal treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." (8/00)

(v) For characteristic wastes that contain underlying hazardous constituents as defined 268.2(i) that are treated on-site to remove the hazardous characteristic to treat underlying hazardous constituents to levels in 268.48 Universal Treatment Standards, the certification must state the following: (11/99)

"I certify under penalty of law that the waste has been treated in accordance with the requirements of 268.40 to remove the hazardous characteristic and that underlying hazardous constituents, as defined in 268.2(i) have been treated on-site to meet the 268.48 Universal Treatment Standards. I am aware that there are

significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(5) If the waste or treatment residue will be further managed at a different treatment or storage or disposal facility, the treatment, storage or disposal facility sending the waste or treatment residue offsite must comply with the notice and certification requirements applicable to generators under this section. (9/98, 11/99)

(6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 268.20(b) regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, pursuant to paragraph (b)(3) of this section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in paragraph (b)(4) of this section, and a notice which includes the information listed in paragraph (b)(3) of this section (except the manifest number) to the Department. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product. (12/92,11/99)

(c) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to 266.20(b), the owner or operator of any land disposal facility disposing any waste subject to restrictions under this part must: (9/98)

(1) Have copies of the notice and certifications specified in paragraph (a) or (b) of this section.

(2) Test the waste, or an extract of the waste or treatment residue developed using test method 1311 (the Toxicity Characteristic Leaching Procedure), described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW846 as incorporated by reference in 260.11 of this chapter), to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in subpart D of this part. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by 264.13 or 265.13 of this chapter.

(d) Generators or treaters who first claim that hazardous debris is excluded from the definition of

hazardous waste under 261.3(f) of this chapter (i.e., debris treated by an extraction or destruction technology provided by Table 1, 268.45, and debris that the Department has determined does not contain hazardous waste) are subject to the following notification and certification requirements: (9/98, 6/04)

(1) A onetime notification, including the following information, must be submitted to the Department to implement part 268 requirements: (12/93,5/96)

(i) The name and address of the Subtitle D facility receiving the treated debris;

(ii) A description of the hazardous debris as initially generated, including the applicable EPA Hazardous Waste Number(s); and

(iii) For debris excluded under 261.3(e)(1), the technology from Table 1, 268.45, used to treat the debris.

(2) The notification must be updated if the debris is shipped to a different facility, and, for debris excluded under 261.2(e)(1), if a different type of debris is treated or if a different technology is used to treat the debris. (12/93)

(3) For debris excluded under 261.3(e)(1), the owner or operator of the treatment facility must document and certify compliance with the treatment standards of Table 1, 268.45, as follows: (12/93)

(i) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;

(ii) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

(iii) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state the following: "I certify under penalty of law that the debris has been treated in accordance with the requirements of 268.45. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment."

(e) Generators and treaters who first receive from EPA or an authorized state a determination that a given contaminated soil subject to LDRs as

provided in 268.49(a) no longer contains a listed hazardous waste and generators and treaters who first determine that a contaminated soil subject to LDRs as provided in 268.49(a) no longer exhibits a characteristic of hazardous waste must:

- (1) Prepare a one-time only documentation of these determinations including all supporting information; and,
- (2) Maintain that information in the facility files and other records for a minimum of three years.

268.8 [Reserved 9/98]

268.9 Special rules regarding wastes that exhibit a characteristic (12/92; 5/96)

(a) The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under subpart D of this part. For purposes of part 268, the waste will carry the waste code for any applicable listed waste (Part 261, Subpart D). In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (Part 261, Subpart C), except when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in paragraph (b) of this section. If the generator determines that their waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, OR POLYM of 268.42, Table 1), the generator must determine the underlying hazardous constituents (as defined at 268.2(i)) in the characteristic waste.(9/98)

(b) Where a prohibited waste is both listed under part 261, subpart D and exhibits a characteristic under part 261, subpart C, the treatment standard for the waste code listed in part 261, subpart D will operate in lieu of the standard for the waste code under part 261, subpart C, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

(c) In addition to any applicable standards determined from the initial point of generation, no prohibited waste which exhibits a characteristic under 261 subpart C may be land disposed unless

the waste complies with the treatment standards under subpart D of this part.

(d) Wastes that exhibit a characteristic are also subject to 268.7 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generators or treaters files and sent to the EPA region or the Department. The notification and certification that is placed in the generators or treaters files must be updated if the process or operation generating the waste changes and/or if the subtitle D facility receiving the waste changes. However, the generator or treater need only notify the EPA region or the Department on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or the Department by the end of the calendar year, but no later than December 31. (12/93)

(1) The notification must include the following information:

- (i) Name and address of the RCRA Subtitle D facility receiving the waste shipment; and (12/93, 9/98)
- (ii) A description of the waste as initially generated, including the applicable EPA hazardous waste code(s), treatability group(s), and underlying hazardous constituents (as defined in 268.2(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice. (12/93, 5/96, 9/98)

(iii) Reserved (5/96)

(2) The certification must be signed by an authorized representative and must state the language found in 268.7(b)(4). (12/93, 8/00)

(i) If treatment removes the characteristic but does not treat underlying hazardous constituents, then the certification found in 268.7 (b)(5)(iv) applies. (5/96)

(ii) [Reserved 5/96]

Subpart B - SCHEDULE FOR LAND DISPOSAL PROHIBITION AND ESTABLISHMENT OF TREATMENT STANDARDS

268.10 - 268.12 [Reserved 9/98]

268.13 Schedule for wastes identified or listed after November 8, 1984

In the case of any hazardous waste identified or listed under SCHWMA 44-56-30 or RCRA section 3001 after November 8, 1984, the Department shall make a land disposal prohibition determination within 6 months after the date of identification or listing. (12/92)

268.14 Surface impoundment exemptions (12/93)

(a) This section defines additional circumstances under which an otherwise prohibited waste may continue to be placed in a surface impoundment.

(b) Wastes which are newly identified or listed under section 3001 after November 8, 1984, and stored in a surface impoundment that is newly subject to subtitle C of RCRA as a result of the additional identification or listing, may continue to be stored in the surface impoundment for 48 months after the promulgation of the additional listing or characteristic, notwithstanding that the waste is otherwise prohibited from land disposal, provided that the surface impoundment is in compliance with the requirements of subpart F of part 265 within 12 months after promulgation of the new listing or characteristic.

(c) Wastes which are newly identified or listed under section 3001 after November 8, 1984, and treated in a surface impoundment that is newly subject to subtitle C of RCRA as a result of the additional identification or listing, may continue to be treated in that surface impoundment, notwithstanding that the waste is otherwise prohibited from land disposal, provided that surface impoundment is in compliance with the requirements of subpart F of part 265 within 12 months after the promulgation of the new listing or characteristic. In addition, if the surface impoundment continues to treat hazardous waste after 48 months from promulgation of the additional listing or characteristic, it must then be in compliance with 268.4.

Subpart C - PROHIBITIONS ON LAND DISPOSAL

268.30 Waste specific prohibitions - wood preserving wastes (9/98)

(a) Effective August 11, 1997, the following wastes are prohibited from land disposal: the wastes specified in 261 as EPA Hazardous Waste numbers F032, F034, and F035. (9/98)

268.31 Waste specific prohibitions - Dioxin-containing wastes (11/90)

(b) Effective May 12, 1999, the following wastes are prohibited from land disposal: soil and debris contaminated with F032, F034, F035; and radioactive wastes mixed with EPA Hazardous waste numbers F032, F034, and F035. (12/92, 9/98)

(c) Between May 12, 1997 and May 12, 1999, soil and debris contaminated with F032, F034, F035; and radioactive waste mixed with F032, F034, and F035 may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 268.5(h)(2) of this part. (11/90, 12/92, 9/98)

(d) The requirements of paragraphs (a) and (b) of this section do not apply if: (11/90, 9/98)

(1) The wastes meet the applicable treatment standards of subpart D of this part; or

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition; or

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under 268.44; or (9/98)

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to those wastes covered by the extension.

(e) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of 268.48 of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified. (9/98)

268.31 Waste specific prohibitions - Dioxin-containing wastes (11/90)

(a) Effective November 8, 1988, the dioxin-containing wastes specified in 261.31 as EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, are prohibited from land disposal unless the following condition applies:

(1) The F020 - F023 and F026 - F028 dioxin-containing waste is contaminated soil and debris resulting from a response action taken under

section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or a corrective action taken under subtitle C of the Resource Conservation and Recovery Act (RCRA).

(b) Effective November 8, 1990, the F020 - F023 and F026 - F028 dioxin-containing wastes listed in paragraph (a)(1) of this section are prohibited from land disposal. (12/93)

(c) Between November 8, 1988, and November 8, 1990, wastes included in paragraph (a)(1) of this section may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 268.5(h)(2) and all other applicable requirements of parts 264 and 265.

(d) The requirements of paragraphs (a) and (b) of this section do not apply if:

(1) The wastes meet the standards of subpart D of this part; or

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition; or

(3) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to those wastes covered by the extension.

268.32 Waste specific prohibitions - Soils exhibiting the toxicity characteristic for metals and containing PCBs. (6/02)

(a) Effective December 26, 2000, the following wastes are prohibited from land disposal: any volumes of soil exhibiting the toxicity characteristic solely because of the presence of metals (D004 - D011) and containing PCBs.

(b) The requirements of paragraph (a) of this section do not apply if:

(1) (i) The wastes contain halogenated organic compounds in total concentration less than 1,000 mg/kg; and

(ii) The wastes meet the treatment standards specified in Subpart D of this part for EPA hazardous waste numbers D004 - D011, as applicable; or

(2) (i) The wastes contain halogenated organic compounds in total concentration less than 1,000 mg/kg; and

(ii) The wastes meet the alternative treatment standards specified in 268.49 for contaminated soil; or

268.33 Waste-specific prohibitions - chlorinated aliphatic wastes.

(3) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition; or

(4) The wastes meet applicable alternative treatment standards established pursuant to a petition granted under 268.44.

268.33 Waste-specific prohibitions - chlorinated aliphatic wastes.

(a) Effective May 8, 2001, the wastes specified in part 261 as EPA Hazardous Wastes Numbers K174, and K175, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under 268.44;

(4) Hazardous debris has met the treatment standards in 268.40 or the alternative treatment standards in 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels of subpart D of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

(d) Disposal of K175 wastes that have complied with all applicable 268.40 treatment standards must also be macroencapsulated in

accordance with 268.45 Table 1 unless the waste is placed in:

- (1) A Subtitle C monofill containing only K175 wastes that meet all applicable 268.40 treatment standards; or
- (2) A dedicated Subtitle C landfill cell in which all other wastes being co-disposed are at pH 6.0.

268.34 Waste specific prohibitions - toxicity characteristic metal wastes (11/99, 8/00)

(a) Effective August 24, 1998, the following wastes are prohibited from land disposal: the wastes specified in Part 261 as EPA Hazardous Waste numbers D004 - D011 that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), and waste, soil, or debris from mineral processing operations that is identified as hazardous by the specifications at Part 261.

(b) Effective November 26, 1998, the following waste is prohibited from land disposal: Slag from secondary lead smelting which exhibits the Toxicity Characteristic due to the presence of one or more metals.

(c) Effective May 26, 2000, the following wastes are prohibited from land disposal: newly identified characteristic wastes from elemental phosphorus processing; radioactive wastes mixed with EPA Hazardous wastes D004 - D011 that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure); or mixed with newly identified characteristic mineral processing wastes, soil, or debris.

(d) Between May 26, 1998 and May 26, 2000, newly identified characteristic wastes from elemental phosphorus processing, radioactive waste mixed with D004 - D011 wastes that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), or mixed with newly identified characteristic mineral processing wastes, soil, or debris may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 268.5(h)(2) of this part.

(e) The requirements of paragraphs (a) and (b) of this section do not apply if: (8/00)

268.35 Waste specific prohibitions - petroleum refining wastes.

- (1) The wastes meet the applicable treatment standards specified in subpart D of this part;
- (2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;
- (3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under 268.44; or
- (4) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(f) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents (including underlying hazardous constituents in characteristic wastes) in excess of the applicable Universal Treatment Standard levels of 268.48 of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

268.35 Waste specific prohibitions - petroleum refining wastes.

(a) Effective February 8, 1999, the wastes specified in part 261 as EPA Hazardous Waste Numbers K169, K170, K171, and K172, soils and debris contaminated with these wastes, radioactive wastes mixed with these hazardous wastes, and soils and debris contaminated with these radioactive mixed wastes, are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

- (1) The wastes meet the applicable treatment standards specified in Subpart D of this part;
- (2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;
- (3) The wastes meet the applicable treatment standards established pursuant to a petition granted under 268.44;

(4) Hazardous debris that have met treatment standards in 268.40 or in the alternative treatment standards in 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of 268.48, the waste is prohibited from land disposal, and all requirements of this part are applicable, except as otherwise specified.

268.36 Waste specific prohibitions - inorganic chemical wastes (6/03)

(a) Effective May 20, 2002, the wastes specified in part 261 as EPA Hazardous Wastes Numbers K176, K177, and K178, and soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

(b) The requirements of (a) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under 268.44;

(4) Hazardous debris has met the treatment standards in 268.40 or the alternative treatment standards in 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial

generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

268.37 Waste specific prohibitions-ignitable and corrosive characteristic wastes whose treatment standards were vacated (12/93)

(a) Effective August 9, 1993, the wastes specified in 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in 261.22 as D002, that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies.

(b) Effective February 10, 1994, the wastes specified in 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in 261.22 as D002, that are managed in systems defined in 40 CFR 144.6(e) and 146.6(e) as Class V injection wells, that do not engage in CWA-equivalent treatment before injection, are prohibited from land disposal.

268.38 Waste specific prohibitions-newly identified organic toxicity characteristic wastes and newly listed coke by-product and chlorotoluene production wastes (5/96)

(a) Effective December 19, 1994, the wastes specified in 261.32 as EPA Hazardous Waste numbers K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151 are prohibited from land disposal. In addition, debris contaminated with EPA Hazardous Waste numbers F037, F038, K107-K112, K117, K118, K123-K126, K131, K132, K136, U328, U353, U359, and soil and debris contaminated with D012-D043, K141-K145,

and K147-K151 are prohibited from land disposal. The following wastes that are specified in 261.24, Table 1 as EPA Hazardous Waste numbers: D012, D013, D014, D015, D016, D017, D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, D043 that are not radioactive, or that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that are zero dischargers that do not engage in CWA-equivalent treatment before ultimate land disposal, or that are injected in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/ sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or better than these technologies.

(b) On September 19, 1996, radioactive wastes that are mixed with D018-D043 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/ sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies. Radioactive wastes mixed with K141-K145, and K147-K151 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

(c) Between December 19, 1994 and September 19, 1996, the wastes included in paragraphs (b) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in 268.5(h)(2) of this Part.

(d) The requirements of paragraphs (a), (b), and (c) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under 268.44;

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(e) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

268.39 Waste specific prohibitions - spent aluminum potliners; reactive; and carbamate wastes (9/98)

(a) On July 8, 1996, the wastes specified in 261.32 as EPA Hazardous Waste numbers K156-K159, and K161; and in 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(b) On July 8, 1996, the wastes identified in 261.23 as D003 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. This prohibition does not apply to unexploded ordnance and other explosive devices which have been the subject of an emergency response. (Such D003 wastes are prohibited unless they meet the treatment standard of DEACT before land disposal (see 268.40)).